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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,430	07/19/2001	Michael Choi	FMC 1305 R	1498

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EXAMINER

HUYNH, HAI H

ART UNIT PAPER NUMBER

3747

DATE MAILED: 03/11/2003

#12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/909,430

Applicant(s)

CHOI, MICHAEL

Examiner

Hai H. Huynh

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-85 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-20, 31, 33-36, 40, 41, 51, 52, 54 and 56-85 is/are allowed.
- 6) ☒ Claim(s) 21-27, 29, 30, 32, 37-39, 42-46, 48-50, 53 and 55 is/are rejected.
- 7) ☒ Claim(s) 28 and 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Claims 1-85 are in the case.

1. The indicated allowability of claims 21, 23-27, 29-30, 37-39, 42-45, 47-50, 52, 54 are withdrawn in view of the newly discovered reference(s) to Parzych (5,709,529).

Rejections based on the newly cited reference(s) follow.

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 42 (second)-84 have been renumbered as 43-85. Claim 43 is objected to as being identical to claim 42, claim 43 should be canceled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 21-27, 29-30, 32, 37-39, 42-46, 48-50, 53, 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Showalter et al (4,318,386) in view of Parzych (5,709,529).

Showalter et al teach an intake system for an internal combustion engine.

Parzych teaches an intake system having a plurality of vanes 26 extending into the main bore for reducing noise in the intake system of a turbo-machine.

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the intake system on the engine of Showalter et al as taught by Parzych in order to reduce the noise in the intake system of the engine.

Allowable Subject Matter

4. Claims 1-20, 31, 33-36, 40-41, 51-52, 54, and 56-85 are allowed.
5. Claims 28 and 47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments with respect to claims 1-85 have been considered but are moot in view of the new ground(s) of rejection.

The petition under 37 CFR 1.183 filed on September 18, 2002 is noted. The application is being forwarded to the Office of Petition for consideration of the petition.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai H. Huynh whose telephone number is (703) 306-9183. The examiner can normally be reached on Monday through Thursday from 7:30 am to 6:00 pm.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7766.



**Hai H. Huynh
Examiner
Art Unit 3747**

HHH
March 10, 2003



**Henry C. Yuen
Supervisory Patent Examiner
Group 3700**